

112TH CONGRESS
2D SESSION

S. 2373

To improve the consideration by the Securities and Exchange Commission
of the costs and benefits of its regulations and orders.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. VITTER introduced the following bill; which was read twice and referred
to the Committee on Banking, Housing, and Urban Affairs

A BILL

To improve the consideration by the Securities and Exchange
Commission of the costs and benefits of its regulations
and orders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “SEC Regulatory Ac-
5 countability Act”.

1 **SEC. 2. CONSIDERATION BY THE SECURITIES AND EX-**
 2 **CHANGE COMMISSION OF THE COSTS AND**
 3 **BENEFITS OF ITS REGULATIONS AND OR-**
 4 **DERS.**

5 Section 23 of the Securities Exchange Act of 1934
 6 (15 U.S.C. 78w) is amended by adding at the end the fol-
 7 lowing:

8 “(e) CONSIDERATION OF COSTS AND BENEFITS.—

9 “(1) IN GENERAL.—Before promulgating a reg-
 10 ulation under the securities laws, or issuing any
 11 order pursuant to such laws, the Commission shall—

12 “(A) clearly identify the nature of the
 13 problem that the proposed regulation is de-
 14 signed to address, as well as assess the signifi-
 15 cance of that problem, to enable assessment of
 16 whether any new regulation is warranted;

17 “(B) utilize the Office of the Chief Econo-
 18 mist to assess the costs and benefits, both qual-
 19 itative and quantitative, of the intended regula-
 20 tion or order and propose or adopt a regulation
 21 or order only on a reasoned determination that
 22 the benefits of the intended regulation or order
 23 justify the costs of the intended regulation or
 24 order;

1 “(C) ensure that any regulation or order is
2 accessible, consistent, written in plain language,
3 and easy to understand; and

4 “(D) measure and seek to improve the ac-
5 tual results of regulatory requirements.

6 “(2) CONSIDERATIONS.—In deciding whether
7 and how to regulate, the Commission shall assess
8 the costs and benefits of available regulatory alter-
9 natives, including the alternative of not regulating.
10 In addition, the Commission may, in making a rea-
11 soned determination of the costs and benefits of a
12 potential regulation—

13 “(A) assess the best ways of protecting
14 market participants and the public;

15 “(B) take into consideration investor
16 choice;

17 “(C) consider the impact on capital forma-
18 tion;

19 “(D) evaluate the effect on the efficiency,
20 competitiveness, and financial integrity of secu-
21 rities markets;

22 “(E) consider the impact on market liquid-
23 ity in the securities markets;

24 “(F) take into consideration price dis-
25 covery;

1 “(G) evaluate sound risk management
2 practices;

3 “(H) evaluate the degree and nature of the
4 risks posed by various activities within the
5 scope of its jurisdiction;

6 “(I) determine whether, consistent with ob-
7 taining regulatory objectives, the regulation is
8 tailored to impose the least burden on society,
9 including market participants, individuals, busi-
10 nesses of differing sizes, and other entities (in-
11 cluding State and local governmental entities),
12 taking into account, to the extent practicable,
13 the cumulative costs of regulations;

14 “(J) determine whether the regulation is
15 inconsistent, incompatible, or duplicative of
16 other Federal regulations; and

17 “(K) determine whether, in choosing
18 among alternative regulatory approaches, those
19 approaches maximize net benefits.

20 “(3) REVIEW OF EXISTING REGULATIONS.—

21 The Commission shall periodically review its regula-
22 tions and orders in effect before the date of enact-
23 ment of this subsection to determine whether any
24 such regulations or orders are outmoded, ineffective,
25 insufficient, or excessively burdensome, and shall

- 1 modify, streamline, expand, or repeal them in ac-
- 2 cordance with such review.”.

